

0/025/005 Incoming

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DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO CA 95814-2922

REPLY TO  
ATTENTION OF

October 6, 2010

Regulatory Division (SPK-2009-01008)

Chris McCourt  
Alton Coal Development, LLC  
463 North 100 West, Suite 1  
Cedar City, Utah 84721

Dear Chris McCourt:

We are responding to your August 16, 2010, request for a Department of the Army permit for the Alton Coal Development, LLC, Coal Hollow Surface Mine and associated Kane County Road #136 relocation project. The proposed 635.64-acre surface coal mine and 3.1-mile County Road #136 project are located approximately 3 miles south of Alton, in Sections 19, 20, 29, 30, and 31, Township 39 South, Range 5 West, and Sections 24 and 25, Township 39 South, Range 6 West, Salt Lake Meridian, Latitude 37.3977 North, Longitude 112.4657 West, Kane County, Utah.

This project involves activities, including discharges of dredged or fill material, in waters of the United States at the following locations:

Waters	Temporary Impact	Project Location
Lower Robinson Creek-Ephemeral Segment	1,350 linear feet	Surface Coal Mine
Lower Robinson Creek-Ephemeral Segment	210 linear feet	Primary Haul Road
Lower Robinson Creek-Intermittent Segment 1	700 linear feet	Surface Coal Mine
Lower Robinson Creek-Intermittent Segment 2	180 linear feet	Realigned County Road #136
Unnamed Ephemeral Stream 1	250 linear feet	Primary Haul Road
Unnamed Ephemeral Stream 3	64 linear feet	Surface Coal Mine
Unnamed Ephemeral Stream 4	200 linear feet	Realigned County Road #136
Unnamed Ephemeral Stream 5	140 linear feet	Realigned County Road #136
Unnamed Ephemeral Stream 6	110 linear feet	Realigned County Road #136
Wetland 11	0.03 acres	Surface Coal Mine
Wetland 12	0.02 acres	Surface Coal Mine
Wetland 13	0.02 acres	Surface Coal Mine
Wetland 14	341 sq ft (<0.01 acres)	Surface Coal Mine
Wetland 15	0.02 acres	Surface Coal Mine
Wetland 16	0.02 acres	Surface Coal Mine

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Based on the information you provided, the proposed activity, resulting in temporary impacts to approximately 0.11 acres of wetlands, and 3,204 linear feet of non-relatively permanent waters, is authorized by Nationwide Permit Number 21. Your work must comply with the general terms and conditions listed on the enclosed Nationwide Permit information sheets and the following special conditions:

**Special Conditions**

- 1. To insure Federal Endangered Species Act compliance, if bald eagles are discovered during realignment of County Road #136, project construction must cease from November 15 through March 15. In accordance with Federal law, if you are unable to implement this measure, you must immediately notify this office, the Bureau of Land Management, and the Fish and Wildlife Service so we may consult as appropriate, prior to initiating the work.**
- 2. To insure Section 106 of the National Historic Preservation Act compliance, if you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office, Utah Division of Oil, Gas, and Mining, and Utah Division of State History of what you have found. The Federal and State coordination required to determine if the remains warrant a recovery effort may be initiated by either agency. In accordance with Federal law, if you are unable to implement this measure, you must immediately notify this office, Utah Division of Oil, Gas, and Mining, and the Utah State Historic Preservation Officer so we may consult as appropriate, prior to initiating the work.**
- 3. You must submit the final authorization, signed by Utah Division of Oil, Gas, and Mining, to implement surface coal mining operations at Coal Hollow Mine, UDOGM Permit Number C/025/005.**
- 4. To document pre- and post-project construction conditions, you shall submit pre-construction photos of the project site prior to project implementation and post-construction photos of the project site within 30 days after project completion.**
- 5. You shall employ Best Management Practices to avoid and minimize environmental impacts. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations and conditions. The affected areas must be re-vegetated in accordance with the Reclamation Plan .**
- 6. You must allow representatives from the Corps of Engineers to inspect the authorized activity and any mitigation, preservation, or avoidance areas at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.**

**7. The following State of Utah water quality certification conditions must also be satisfied:**

**A.) Whenever a permittee causes the causes the water turbidity in an adjacent surface water to increase 10 NTUs or any visible increase in turbidity as a result of the project, the permittee shall notify the Division of Water Quality.**

**B.) The permittee shall not use any fill material which may leach organic chemicals (e.g., discarded asphalt) or nutrients (e.g., phosphate rock) into the receiving water.**

**C.) Permittees shall protect any potentially affected fish spawning areas.**

**D.) Utah Code Annotated 19-5-114 requires that any spill or discharge of oil or other substance which may cause pollution to waters of the State must be immediately reported to the Utah Division of Water Quality.**

**E.) In an effort to abate pollution as a result of NWP activities, the permittee shall remediate riparian areas along stream banks to minimize water quality impacts, if vegetation is disturbed as a result of the project.**

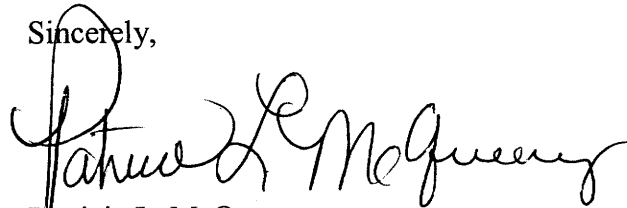
**8. You must sign the enclosed Compliance Certification and return it to this office within 30 days after completion of the authorized work.**

This verification is valid until March 18, 2012, or until the Nationwide Permit is modified, reissued, or revoked, whichever comes first. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. Failure to comply with the General Conditions of this Nationwide Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2009-01008 in any correspondence concerning this project. If you have any questions, please contact Karen Clementsen at 321 North Mall Drive, Suite L-101, St. George, UT 84790-7310, email *Karen.L.Clements@usace.army.mil*, or telephone 435-986-1961. For more information regarding our program, please visit our website at *www.spk.usace.army.mil/regulatory.html*.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia L. McQueary', written in a cursive style.

Patricia L. McQueary  
Chief, St. George Regulatory Office

Enclosure(s):

Figures 1 and 2: Project Area Location Maps  
Compliance Certification  
NWP21 Information sheet

Copy furnished without enclosure(s):

Charles Williamson, State of Utah Division of Water Rights, PO Box 146300, Salt Lake City, Utah 84114-6300

✓ Darron Haddock, Utah Division of Oil, Gas and Mining, PO Box 145801, Salt Lake City, Utah 84114-5801

Keith Rigtrup, Bureau of Land Management, 176 East DL Sargent Drive, Cedar City, Utah 84721-9337

Lou Prat, Kane County, 76 North Main Street, Kanab, Utah 84741

Dennis Wenger, Frontier Corporation USA, 221 N Spring Creek Parkway, Suite B, Providence, Utah 84332